

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7102

BILL NUMBER: SB 574

NOTE PREPARED: Feb 3, 2009

BILL AMENDED:

SUBJECT: Health Facility Third-Party Survey Appeal Process.

FIRST AUTHOR: Sen. Dillon

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: This bill establishes a third-party dispute resolution process with a Registered Nurse Review Panel that a health facility may use to appeal a finding in the facility's State Department of Health (ISDH) survey report.

Effective Date: July 1, 2009.

Explanation of State Expenditures: The fiscal impact of this bill would depend on the number of third-party appeals requested and the number of appeals the state might win. This process would be in addition to the existing informal dispute resolution process. The ISDH has estimated that if there are 300 additional appeals and the state prevails in 50% of the appeals, the cost of this bill could be as high as \$1.0 M to \$1.1 M annually.

Background: The ISDH currently has two informal dispute resolution processes. One process is an informal review by ISDH survey supervisors that may be an in-person review or a paper review. ISDH reported that there were 118 surveys reviewed by this process in 2008 covering 236 cited deficiencies. The second process is an independent review conducted by a Michigan company, MPRO. A facility may request a review by MPRO but must bear the cost of the review. There were 9 surveys reviewed by MPRO in 2008.

Registered Nurse Review Panels: The bill requires that the ISDH establish a third-party dispute resolution process for the appeal of ISDH health facility survey report findings. The bill establishes the parameters for filing an appeal and specifies the make-up of the review panel. The bill specifies a selection process for the chairperson of the nurse review panel and requires that the nonvoting chairperson be an attorney that

maintains offices in the county in which the appealing health facility is located. The bill would require the ISDH and the appealing health facility to select a chairperson by agreement and specifies a process to select the chairperson if the two parties do not agree. The chairperson is required to act in an advisory capacity for the nurse review panel. The chairperson is required to assist in expediting the selection of the panel members, convene the panel, expedite the review, and prepare the opinion of the panel. The chairperson is also responsible for keeping a record of the time and expenses of all the members of the panel. The record is to be submitted to parties for payment with the panel's report, which is to be mailed registered or certified mail. Chairpersons are to be paid \$250 per day, up to a total of \$2,000 plus reasonable travel expenses.

The bill specifies the process for the selection of the registered nurses comprising the review panel and requires that no nurse employed by or previously employed by either party, the state, or the appealing facility may serve on a review panel. Registered nurses on the review panel are to be paid up to \$350 for their service plus travel expenses.

The maximum cost for the members of each Registered Nurse Review panel is \$3,050. If travel expenses and other incidental review board expenses are an additional \$1,200, each review panel may cost about \$4,250. The bill specifies that the review panel's expenses and fees are to be paid by the party against whom the panel finds. If there is no majority opinion, the parties are to split the cost of the review. The cost to the state for the Registered Nurse Review Panels would be dependent upon the number of appeals filed and the findings of each review panel.

ISDH Administrative Expense: The selection process for the chairperson and the nurse members of the review panels is a prescriptive process. ISDH would need to coordinate the panel selection process, prepare depositions and evidence for the review panel, and provide additional surveyor time to testify before the panels. ISDH reports that a program coordinator would be required. Cost of the coordinator is estimated to be \$50,000. ISDH reports that if 300 appeals would be filed that two additional attorneys would be necessary to represent the agency at a cost of approximately \$160,000 annually. Finally, the ISDH estimates that the additional time required of the nurse surveyors would affect the statewide survey workload. Up to two additional nurse surveyors would be required if 300 appeals would be filled annually. The estimated cost is \$80,000 for salary and benefits for each nurse surveyor. Total estimated additional staffing cost for a work load of 300 appeals is estimated to be \$370,000. Fewer appeals would result in lower staffing requirements.

The staffing estimate does not include appeal-associated travel costs for ISDH staff, deposition costs associated with appeals, and the necessary copies of the survey records to be supplied to each member of the review panel. (Survey records average about 200 pages.)

Explanation of State Revenues: The bill would establish a new fee, the Registered Nurse Review Panel Selection Fee. The \$25 fee is to be collected by the Clerk of the Supreme Court from a party requesting the formation of a random list of attorneys that maintain an office in the county in which the appealing facility is located. This fee is related to a procedure for selecting a review panel chairperson when the parties do not agree on the selection of a review panel chairperson. The bill does not specify where the fee is to be deposited. The revenue collected through the fee is estimated to be limited.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: ISDH.

Local Agencies Affected: Local government-owned nursing facilities that may appeal a survey finding.

Information Sources: ISDH.

Fiscal Analyst: Kathy Norris, 317-234-1360.